

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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EBEN ALEXANDER, III, M.D.	)	
	)	
Plaintiff,	)	Case No. 04-10738-MLW
	)	
v.	)	
	)	
BRIGHAM AND WOMEN'S PHYSICIANS	)	
ORGANIZATION, INC., successor to	)	
Brigham Surgical Group Foundation, Inc.,	)	
BOSTON NEUROSURGICAL FOUNDATION	)	
INC., BRIGHAM SURGICAL GROUP	)	
FOUNDATION, INC. DEFERRED	)	
COMPENSATION PLAN, BRIGHAM	)	
SURGICAL GROUP FOUNDATION, INC.	)	
FACULTY RETIREMENT BENEFIT	)	
PLAN, COMMITTEE ON COMPENSATION	)	
OF THE BRIGHAM SURGICAL GROUP	)	
FOUNDATION, INC., and PETER BLACK, M.D.	)	
	)	
Defendants.	)	
	)	

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**JOINT MOTION TO RESCHEDULE SUMMARY JUDGMENT HEARING**

The parties to the above-captioned matter hereby respectfully request that this Court reschedule the summary judgment from January 25, 2006 to February 28, 2006, or another date that is convenient for the Court. In support hereof, the parties state as follows:

1. A summary judgment hearing was held on November 15, 2005 after which the Court ordered the parties to attempt to stipulate to additional facts and ordered a further summary judgment hearing to be held on January 13, 2006.
2. Due to a scheduling conflict with plaintiff's counsel, the Court granted the parties' first joint motion to reschedule the hearing to January 25, 2006. *See* Electronic Notice dated December 29, 2005.

3. On December 19, 2005 the parties filed a Supplemental Agreed Statement of Facts for Cross Summary Judgment Motions, as the Court ordered.

4. On December 19, 2005 and December 23, 2005, counsel notified the Court that the parties were still working toward reaching agreement on additional stipulations responsive to the Court's Order dated November 15, 2005. *See Letters from David C. Casey to Honorable Mark L. Wolf.*

5. In working toward reaching further stipulations, defendants recently provided plaintiff with many additional documents, including individual physician practice reports. A review of these voluminous reports has revealed certain factual discrepancies which will require corrections to the record.

6. In addition, the parties continue to work toward supplementing the agreed facts.

7. In light of these developments, and the need for additional time to allow plaintiff's counsel a fair opportunity to review the factual material recently provided to them, the parties believe it would be most efficient for the Court to continue the hearing scheduled for this Wednesday, January 25, 2006.

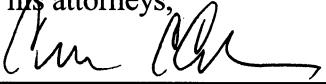
8. The parties have requested a date in late February 2006 to reschedule the summary judgment hearing because plaintiff's counsel is scheduled to appear for a two-week trial commencing February 6, 2006 in Massachusetts Superior Court (Bristol County). In the event that trial does not proceed for any reason, the parties will notify the Court to reschedule the summary judgment date to an earlier date in February, if possible.

WHEREFORE, for the foregoing reasons, the parties respectfully request that this Court reschedule the summary judgment hearing to February 28, 2006, or as convenient for the Court.

Respectfully submitted,

EBEN ALEXANDER, III, M.D.,

By his attorneys,

  
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BRIGHAM AND WOMEN'S  
PHYSICIANS ORGANIZATION, INC.,  
BOSTON NEUROSURGICAL  
FOUNDATION INC., BRIGHAM  
SURGICAL GROUP FOUNDATION, INC.  
DEFERRED COMPENSATION PLAN,  
BRIGHAM SURGICAL GROUP  
FOUNDATION, INC. FACULTY  
RETIREMENT BENEFIT PLAN,  
COMMITTEE ON COMPENSATION OF  
THE BRIGHAM SURGICAL GROUP  
FOUNDATION, INC., and PETER  
BLACK, M.D.,

By their attorneys,

  
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Dated: January 24, 2006

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